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COUNT

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JUAN DAVILA-BAJANA,

PLAINTIFF,

-VS-

TIM HOLOHAN, ET AL.,

DEFENDANTS.

— — — — —

CASE NO. 04-253 ERIE

DISTRICT JUDGE MCLAUGHLIN
MAGISTRATE JUDGE BAXTER

FILED

06 AUG -3 A10:44

CLERK
U.S. DISTRICT COURT

MOTION FOR ENLARGEMENT OF TIME TO FILE
OBJECTIONS TO:
MAGISTRATE JUDGES BAXTER'S AMENDED REPORT AND RECOMMENDATION

COMES NOW Juan Davila-Bajana, Pro Se, (Plaintiff); and hereby respectfully files his Motion for Enlargement of Time to File Objections to Magistrate Judge Baxter's Amended Report and Recommendation (R&R). Same is done in order to allow Plaintiff time to secure documentation to support his Claims and/or Objections.

This Motion is filed pursuant to Federal Rules of Civil Procedure, Rule 6(b) and is filed within the original time period, to wit, within the statutory allowed ten (10) days to file Objections. Which, because of Plaintiff's incarceration would be 10 days from July 20, 2006, (date of R&R plus 3 days pursuant to Federal Rules of Civil Procedure, Rule 6(e)); or August 3, 2006. (As weekends and holidays are not included in the 10 days, see Federal Rules of Civil Procedure, Rule 6(a)). See: Certificate of Service, *infra*.

In support of Plaintiff's Enlargement of Time to File his Objections, he states that upon information and belief he did file a separate Administrative Remedy Request pertaining to the "second hand smoke and silica dust". But

unfortunately Plaintiff is unable to find his copy. This may have been do to his having been placed in the Special Housing Unit (SHU) a number of times since the filing of his Complaint; as his property was repeatedly gone through by prison officials and this is not the only property which he has found to be missing.

However, Plaintiff has now, as of the date of this Pleading, see Declaration, infra; filed Requests to the Warden, Northeast Regional Director, and Central Office General Counsel for a complete printout of his Administrative Remedies and will secure copies of the one which he is seeking. The unfortunate part of this is that it will take at least two weeks to get the printout and the copies he seeks (at least) -- so Plaintiff will require at least thirty (30) more days to compile his Objections.


Furthermore, the Defendants cannot be prejudiced by this delay as if Plaintiff would later secure the documentation he seeks, he would just reinstate his law suit. Or file a new one.

WHEREFORE PLAINTIFF PRAYS, that this Honorable Court will Grant him an Enlargement of Time to secure materials/documentation and to file his Objections by August 31, 2006.

DECLARATION AND CERTIFICATE OF SERVICE

I, Juan Davila-Bajana, hereby declare and affirm that the foregoing pleading is true and correct to the best of my knowledge and recollection; and that I served a true and correct Original of the foregoing pleading and accompanying Declaration, by first-class postage prepaid surrender to the prison officials, this 1st day of August, 2006, to:

1. Paul D. Kovac, AUSA
Western District of PA Attorney's Office
700 Grant Street, Suite 400
Pittsburgh, PA 15219



Juan Davila-Bajana, Pro Se
Fed. Reg. No. 47580-053
2 FCI McKean, P.O. Box 8000
Bradford, PA 16701

Juan Davila-Bajana
Fed. Reg. No. 47580-053
FCI McKean
P.O. Box 8000
Bardford, PA 16701

July 31, 2006

Clerk of the Court
U.S.D.C. for W.D. PA
17 South Park Row, Ste. A280
Erie, PA 16501

RE: JUAN DAVILA-BAJANA V. TIM HOLOHAN, ET AL., CASE # 04-253E.

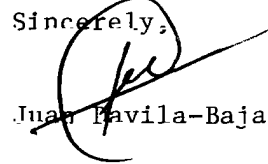
Dear Sirs:

I am writing to you as the person who was assisting me at the prison with my suit has been transferred to another prison. I now have another prisoner assisting me and he has shown me that there are a few questions which need answered before I file my Objections to the Magistrate Judge Baxter's Amended Report and Recommendation.

In order to answer these questions I need a copy of the Docket Sheet for this case and additional time to file my Objections. Could you please forward me a copy of the Docket Sheet and submit the enclosed Motion for Extension of Time to File Objection. (Which also shows that I need more time to secure materials from the Bureau of Prisons for my Objections).

As always, I thank you for your time and efforts in assisting me in staying timely and prompt before the Court. Should you need more from me, please contact me at the above address.

Sincerely,


Juan Davila-Bajana

enc. YES

cc. FILE; AUSA KOVAC.